

**Proposed Resolution of the
Navajo Nation Human Rights Commission**

**Opposing Legislation No. 0420-11 An Action Relating to Resource and Development And
Naabik'iyati'.**

WHEREAS:

1. Pursuant to 2 N.N.C. § 920, the Navajo Nation Human Rights Commission (herein referred to as the “Commission”) is established in the Legislative Branch as an entity of the Navajo Nation government; and
2. Pursuant to 2 N.N.C. § 921, the Commission is organized to operate as a clearinghouse entity to administratively address discriminatory actions against citizens of the Navajo Nation, and to interface with the local, state, federal governments and with national and international human rights organizations in accordance with its plan of operation and applicable laws and regulations of the Navajo Nation; and
3. Recognizing that the United States of America (herein referred to as the “United States”) is a member of the United Nations since October 24, 1945, and committed to, “reaffirm faith in fundamental human rights” and will “employ international machinery for the promotion of the economic and social advancement of all peoples”; and
4. Recognizing that the United States is a party to many international human rights obligations enacted by the United Nations including: the Covenant on Civil and Political Rights (G.A. Res. 2200A (XXI)), the Convention on the Elimination of All Forms of Racial Discrimination, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (G.A. Res. 54/263), and the Declaration on the Rights of Indigenous Peoples (G.A. Res. 61/295); and
5. Since the 1930s, the Navajo Nation and Navajo people opposed the construction of the Arizona Snowbowl Resort Limited Partnership (“Snowbowl”). The Navajo Nation and the people expressed concerns against the construction and expansion of the Snowbowl. Moreover, the Navajo Nation litigated the construction and expansion of the Snowbowl in federal court. The Ninth Circuit Courts of Appeal en banc ultimately ruled in favor of the Snowbowl. On June 8, 2009, the United States Supreme Court declined a Petition for Certiorari in the matter of *Navajo Nation v. U.S. Forest Service*; and
6. The Navajo people’s human rights were violated because the United States did not adhere to international standards in which it was bound by allowing an agency of the United States to issue a permit that authorized the desecration of Dook’o’oosliid. The Navajo Nation never agreed nor was ever a party to the desecration of its sacred site. The Navajo Nation and the Navajo people revere Dook’o’oosliid as a single living entity. The people gather traditional herbs and medicine, as well as conduct ceremonies, and the Life Ways of the Navajo people are inextricably tied to Dook’o’oosliid. In whole, the Navajo Nation

1 and Navajo people continuously expressed opposition to any desecration of
 2 Dook’o’oosliid, including artificial snowmaking.

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 4 7. On May 17, 2010, based on the recommendation of the Commission, the
 5 Intergovernmental Relations Committee of the Navajo Nation Council authorized the
 6 submission of a complaint to Professor S. James Anaya, Special Rapporteur, and
 7 requested that Special Rapporteur carry out his mandates to protect the human rights of
 8 Navajos and other indigenous peoples as they pertain to religion, cultural integrity, and
 9 sacred site(s); and

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 11 8. On August 22, 2011, Professor S. James Anaya, Special Rapporteur, issued a report
 12 entitled *Report by the Special Rapporteur on the [R]ights of [I]ndigenous [P]eoples*,
 13 Rep. of Human Rights Council, 18th Sess, Aug. 22, 2011, U.N. Doc.
 14 A/HRC/18/35/Add.1; UN. GAOR, 65th Sess., (Sept. 14, 2011), to the United Nations
 15 Human Rights Council. The Commission acknowledged the report through Resolution
 16 NNHRCSEPT-08-11 which affirmed that the stake holders’ human rights to free, prior
 17 and informed consent were violated because the United States did not comply with the
 18 requirements under the International Covenant on Civil and Political Rights and
 19 International Convention on the Elimination of All Forms of Racial Discrimination; and

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 21 9. The Special Rapporteur also reported deficiencies in the United State’s consultation
 22 process mandated by Executive Order that “[s]imply providing indigenous peoples with
 23 information about a proposed decision and gathering and taking into account their points
 24 of view is not sufficient in (the context of free, prior and informed consent).”
 25 Consultation must occur through procedures of dialogue aimed at arriving at a consensus.
 26 Id. At 48; and

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 28 10. On October 7, 2011, Legislation No. 0420-11 was introduced and assigned to the
 29 Resource and Development and Naabik’iyati’ Committees supporting the use of
 30 groundwater, instead of reclaimed wastewater, to be used to produce artificial snow on
 31 the San Francisco Peaks for recreational and economic purpose.

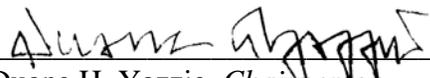
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 33 **NOW THEREFORE BE IT RESOLVED THAT:**

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 35 1. The Commission hereby opposes Legislation No. 0420-11 which supports the use of
 36 groundwater to be used to produce artificial snow on the San Francisco Peaks for
 37 recreational and economic purpose.

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 39 2. The Commission further recommends that the Navajo Nation Council continue to support
 40 the Special Rapportuer report regarding the San Francisco Peaks and that true
 41 consultation – in the context of free, prior and informed consent – occur through
 42 procedures of dialogue aimed at arriving at a consensus on protecting the San Francisco
 43 Peaks from further desecration.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Human Rights Commission at a duly called meeting in St. Michaels, Navajo Nation (Arizona), at which time a quorum was present and was passed by a vote of 3 in favor and 0 opposed, this 4th day of November 2011.



Duane H. Yazzie, *Chairperson*
Navajo Nation Human Rights Commission